

## **REMARKS/ARGUMENT**

### Description of Amendments

In this Amendment, claims 1, 3, 18, 19, and 34 are currently amended, and claims 48-53 are new. Withdrawn claims 12-17 and 42-47 (unelected groups II and III) have been canceled along with previously canceled claims 30-33.

No new matter is introduced by this Amendment. Currently amended claims 1, 18, and 34 are supported by the originally-filed specification (see, for example, FIG. 7 and paragraph 46 of Pub. No. 2005/0209661). Amended claims 3 and 19 are supported by the originally-filed specification (see, for example, original claims 3 and 19). New claims 48-53 are supported by the originally-filed specification (see, for example, FIGS. 3AB, 3CD, and 3EF and paragraph 42 of Pub. No. 2005/0209661).

Reconsideration and removal of the rejections are respectfully requested.

### Double Patenting Rejection

Claims 1-4, 6-8, 18-29, 34, 36-38 and 41 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 and 25 of co-pending Application No. 10/856,186.

Applicant requests that this provisional rejection be held in abeyance until resolution of rejections under 35 U.S.C. §102.

### Claim Objections

Claims 1-4, 6-8, 18-29, 34, 36-38 and 41 were objected because of alleged informalities. Applicant submits that the objections are rendered moot by the amendments to the claims.

### Rejection under 35 U.S.C. §102

Claims 1-4, 6-8, 10, 11, 18-29, 34, 36-38, 40 and 41 were rejected under 35 U.S.C. §102(b) as being anticipated by vanHooydonk (U.S. Patent 5,902,251).

Independent claims 1, 18, and 34

The Office indicated that “the examiner will interpret any claim language regarding currents and current parameters as intended use” because the “independent claims recite first and second currents but fail to recite the source” (Office Action, page 4). Independent claims 1, 18, and 34 have been amended to recite “a generator” adapted to provide current signals. Accordingly, Applicant submits that the elements of claims 1, 18, and 34 quoted below must be given patentable weight.

Applicant submits that vanHooydonk fails to teach the following elements recited in claim 1:

a second radiation coil coupled to the second conductor for radiating a second electromagnetic field based on the second current signal, the first and second electromagnetic fields causing an interferential electromagnetic field pattern, wherein the frequency of the second current signal is equal to, or a substantially perfect multiple of, the frequency of the first current signal and/or the first current signal and the second current signal are in phase or out of phase.

vanHooydonk also fails to teach the following elements recited in independent claim 18:

a radiation tip coupled to the conduction member for radiating an interferential electromagnetic field pattern based on the at least two current signals, wherein the frequency of one of the current signals is a substantially perfect multiple of the frequency of the other current signal and/or the two current signals are out of phase.

vanHooydonk also fails to teach the following elements recited in independent claim 34:

a second radiation coil coupled to the generator, the second radiation coil for radiating a second electromagnetic field based on a second current signal, the first electromagnetic field and the second electromagnetic field causing an interferential electromagnetic field pattern for ablating tissue.

Accordingly, Applicant respectfully submits that independent claims 1, 18, and 34 are patentably allowable over vanHooydonk

Independent claims 3 and 19

Applicant traverses the rejection of claims 3 and 19, which have been rewritten independent form.

Claim 3 recites that the “first conductor and the second conductor are nesting coaxial conductors.” Claim 19 recites that “the conduction member includes six nesting coaxial conductors.”

vanHooydonk fails to teach the “nesting” feature recited in claims 3 and 19. vanHooydonk mentions the use of a single coaxial cable (col. 7:50) for FIG. 2 but does not teach or suggest coaxial cables that are nested. vanHooydonk also mentions “various antenna coaxial cables” (col. 7:49) for FIG. 3A, but FIGS. 3A and 3B clearly shows that the cables for antennas 18A-C are not nested with each other. Accordingly, Applicant submits that claims 3 and 19 are patentably allowable over vanHooydonk.

Claims 2, 4, 6-8, 10, 11, 20-29, 36-38, 40 and 41

Claims 2, 4, 6-8, 10, 11, 20-29, 36-38, 40 and 41 depend from base claims 1, 18, and 34, include all the elements of their respective base claim, and are patentably allowable for at least the same reasons given above for the base claims.

New Claims

New claim 48-53 depend from base claims 1, 18, and 34, include all the elements of their respective base claim, and are patentably allowable for at least the same reasons given above for the base claims.

Conclusion

In light of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in

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fees or credit any overpayments to Deposit Account No. 07-1850.

Respectfully submitted,

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